

HOUSE BILL REPORT

HB 1359

As Reported by House Committee On:
Commerce & Labor
General Government Appropriations

Title: An act relating to the practice of landscape architecture.

Brief Description: Regarding the practice of landscape architecture.

Sponsors: Representatives Williams and Ormsby.

Brief History:

Committee Activity:

Commerce & Labor: 1/30/09, 2/6/09 [DPS];

General Government Appropriations: 2/26/09 [DPS(CL)].

Brief Summary of Substitute Bill

- Establishes licensing requirements for the practice of landscape architecture in place of the registration requirements for using the title of landscape architect.
- Establishes exemptions to the licensing requirements for the practice of landscape architecture.
- Directs the State Board of Licensure for Landscape Architects to administer the requirements.
- Creates the Landscape Architects' License Account in the State Treasury.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

Staff: Alison Hellberg (786-7152)

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Legislation enacted in 1969 requires a person who uses or advertises the title of landscape architect, landscape architecture, or landscape architectural to register with the Board of Registration for Landscape Architects. The membership of the Board of Registration for Landscape Architects consists of four landscape architects and one member of the public, all appointed by the Governor.

A "landscape architect" is defined as a person who performs professional services such as consultations, investigations, reconnaissance, research, planning, design, or teaching supervision in connection with the development of land areas where the dominant purpose of the services is the preservation, enhancement, or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings and approaches to structures or other improvements, or natural drainage and erosion control.

Prior to applying for registration, an applicant must have completed a course of study in landscape architecture and graduated from an approved college or school, or the equivalent, as determined by the Board of Registration for Landscape Architects. The applicant must also have a minimum of seven years of combined training and experience and pass a written examination. The Director of the Department of Licensing (Director) may register an applicant who is a registered landscape architect in another state or country whose requirements for registration are substantially equivalent.

The Department of Licensing (Department) regulates many businesses and professions under specific licensing laws. Each business and profession is under either the disciplinary authority of the Director, or a board or commission charged with regulating that particular profession. The Uniform Regulation of Business and Professions Act (URBPA) provides consolidated disciplinary procedures for these licensed businesses and professions.

In addition to the conduct, acts, or conditions under the URBPA, the Director may impose discipline when a landscape architecture registrant:

- impersonates a practitioner; or
- permits his or her seal to be affixed to any plans, specifications, or drawings that were not prepared by him or her or by employees subject to his or her direction and control.

Summary of Substitute Bill:

The practice of landscape architecture is restricted to those who are licensed to practice in Washington by the State Board of Licensure for Landscape Architects (Board). The practice of landscape architecture is expanded to include the preparation of construction documents and construction administration.

The practice of landscape architecture is the rendering of services where landscape architectural education, training, experience, and the application of mathematical, physical, and social science principles are applied in consultation, evaluation, planning, design including the preparation and filing of plans, drawings, specifications, and other contract

documents, and administration of contracts relative to projects principally directed at functional and aesthetic use and preservation of land.

Requirements for Licensure.

The Director licenses qualified applicants who have been certified by the Board. In order to qualify, an applicant must pass the required examination, offer satisfactory proof of completing required education and work experience, be of good moral character, and be at least 18 years old. The required education and work experience consist of either:

- a professional landscape architectural degree from an institution of higher education accredited by the National Landscape Architecture Accreditation Board, or equivalent as decided by the Board, and three years of practical landscape architectural work experience under the supervision of a licensed landscape architect;
- a baccalaureate degree from a college or university and eight years of practical landscape architectural work experience under the supervision of a licensed landscape architect;
- a high school diploma and 15 years of practical landscape architectural work experience, at least eight of which must be under the supervision of a licensed landscape architect; or
- equivalent education and experience as approved by the Board.

The Director may license an applicant who is a licensed landscape architect from another state or country if the individual's qualifications and experience are determined by the Board to be equivalent to Washington's requirements. A landscape architect licensed or registered in another jurisdiction may offer to practice in Washington if:

- it is clearly and prominently stated in any offer that the landscape architect is not licensed to practice landscape architecture in Washington; and
- before practicing landscape architecture or signing a contract to provide these services, the landscape architect obtains a certificate of licensure.

A licensed landscape architect must demonstrate continuing professional education activities, as prescribed by the Board. A license of a person who is not in compliance with a child support order will immediately be suspended. The license may be reissued if the person continues to meet all other licensing requirements and the Board receives a receipt from the Department of Social and Health Services stating that the licensee is in compliance with the child support order.

Licensure Board for Landscape Architects.

The Board of Registration for Landscape Architects is replaced with the Board. The membership of the Board consists of four licensed landscape architects and one member of the public. The landscape architect members must be residents of Washington and have at least eight years of experience in the field of landscape architecture. Members are appointed to six-year terms by the Governor.

The Board certifies the education and work experience of applicants and determines the content, scope, and grading process of the required examination. The Board may adopt an appropriate national examination and grading procedure.

The Board may impose disciplinary procedures under the URBPA for the following actions:

- offering to pay, paying, or accepting any substantial gift, bribe, or other consideration to influence the award of professional work;
- being willfully untruthful or deceptive in any professional report, statement, or testimony;
- having a financial interest in a contract to supply labor or materials for a project in which a person is employed as a landscape architect, unless the client consents after a full disclosure;
- allowing an interest in any business to affect a decision regarding landscape architectural work;
- signing or permitting a seal to be affixed to any drawings or specifications that were not prepared or reviewed by the landscape architect; or
- willfully evading any law, ordinance, code, or regulation governing site or landscape construction.

Exemptions from Licensure.

These licensing requirements do not affect or prevent:

- the practice of architecture, land surveying, engineering, geology, forestry, or any legally recognized profession by persons not licensed as landscape architects;
- drafters, clerks, project managers, superintendents, and other employees of landscape architects from acting under the supervision of their employers;
- the construction, alteration, or supervision of sites by contractors or superintendents employed by contractors or the preparation of shop drawings;
- contractors from engaging persons who are not landscape architects to observe and supervise site construction of a project;
- qualified professional biologists from providing services for natural site areas that also fall within the definition of landscape architecture;
- the preparation of construction documents including planting plans, landscape materials, or other horticulture-related elements;
- individuals from making plans, drawings, or specifications for any property owned by them and for their personal use;
- the design of irrigation systems; or
- landscape design on residential properties.

The Landscape Architects' License Account is created in the State Treasury.

Substitute Bill Compared to Original Bill:

The receipts from fees under the landscape architecture program are segregated from the current pooled Business and Professions Account into a new dedicated Landscape Architects' License Account (Account) starting on July 1, 2009. An emergency clause is added with an effective date of July 1, 2009 for the provisions dealing with the new Account and segregation of funds from the existing account. An effective date of July 1, 2010 is included for the other provisions. The Department is authorized to set fees and dates for certificates of licensure. Several technical and clarifying changes are made including replacing the term

"Executive Secretary" with "Executive Director" and clarifying the role of the Director in administering suspensions and reissuance of licenses for child support orders and nonpayment or default on government funded educational loans.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2010, except for sections 17 and 19, relating to the new account, which contains an emergency clause and take effect on July 1, 2009.

Staff Summary of Public Testimony:

(In support) The practice of landscape architecture has become more complex over the years and the licensing provisions have not been changed for 40 years. Regulation of the practice of landscape architecture is important for the health, safety, and protection of the public. It is very important to have continuing education as the industry is changing and it is important that people are educated in the changes. The practice of landscape architecture is broad and addresses all of the issues in the ground plane. Recently, landscape architects have been concerned with issues of sustainability, disability access, water, and crime prevention.

Forty-one states have practice acts. Some of the best landscape architecture firms in the world are headquartered in Washington. The state is a net exporter of landscape architecture services with numerous federal and international contracts. If Washington does not have an equivalent regulatory structure as other states, landscape architects licensed here may not be granted reciprocity. This puts Washington at a great disadvantage.

The education requirements for landscape architects are on par with civil engineers and architects. The licensing requirements should be as well. This bill contains a cohesive set of standards for an established profession.

(In support with concerns) The landscape designers worked with the landscape architects on this bill and have some concerns related to the exemptions. It is important that landscape designers be allowed to continue their practice. There is concern about how the Department will interpret the exemption related to landscape materials.

(Neutral) The Department has analyzed the exemptions and feels comfortable that it can distinguish between landscapers and designers in order to properly regulate landscape architects. The changes to the laws will result in a substantial increase in fees initially, but can be lowered once the initial rulemaking is done. The Department has also provided some technical feedback on the bill.

(Opposed) None.

Persons Testifying: (In support) Representative Williams, prime sponsor; Curtis LaPierre, Charles Warsinske, Ed Winkley, Terri Hotvedt, Travis Price, and Greg Murphy, Washington Society of Landscape Architects; and Stan Bowman, American Institute of Architects Washington Council.

(In support with concerns) Lisa Port, Association of Professional Landscape Designers.

(Neutral) Joe Vincent, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The substitute bill by Committee on Commerce & Labor be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Armstrong, Blake, Dunshee, Hudgins, Kenney, Pedersen, Sells, Short, Van De Wege and Williams.

Staff: Serah Stetson (786-7109)

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Commerce & Labor:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2010, except for sections 17 and 19, relating to the new account, which contains an emergency clause and take effect on July 1, 2009.

Staff Summary of Public Testimony:

(In support) There are no State General Fund implications because the program is self-funded by fees. Stakeholders have been involved in the crafting of this practice act for a number of years. The one surprise at the end is the fiscal note and getting that revised for the substitute bill is important. As long as the increased fees are a fair assessment of the costs architects would be willing to pay an increased fee. Fees are expected to diminish in future years. This issue has come up before in both the House and the Senate. It's been a bumpy road but this is a product that betters the profession and is agreed to by the parties involved.

(Opposed) None.

Persons Testifying: (In supports) Representative Williams, prime sponsor; Terrie Hotvedt, Washington Chapter of Landscape Architects; and Charles Warsinske, Washington Chapter American Society of Landscape Architectures.

Persons Signed In To Testify But Not Testifying: None.